101ST CONGRESS
2d Session

SENATE

TREATY DOC.
101-12

CONSULAR CONVENTION WITH THE REPUBLIC OF TUNISIA

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF TUNISIA, SIGNED AT TUNIS ON MAY 12, 1988

FEBRUARY 26, 1990.—Convention was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

---

U.S. GOVERNMENT PRINTING OFFICE

39-118 WASHINGTON : 1990

S385-5

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *February 23, 1990*

To the Senate of the United States:

I am transmitting, for the Senate's advice and consent to ratification, the Consular Convention between the United States of America and the Republic of Tunisia signed at Tunis on May 12, 1988. I am also transmitting, for the information of the Senate, the report of the Department of State with respect to the convention.

The signing of this convention is a significant step in the process of enhancing and broadening the relationship between the United States and the Republic of Tunisia. Consular relations between the two countries currently are not addressed by a bilateral agreement. The convention establishes clear obligations with respect to matters such as notification of consular officers of the arrest and detention of the nationals of their countries and protection of the rights and interests of the nationals of their countries.

The people of the United States and Tunisia have a tradition of friendship and cooperation. I welcome the opportunity through this consular convention to promote further the good relations between the two countries. I recommend the Senate give early and favorable consideration to the convention and give its advice and consent to ratification.

GEORGE BUSH.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE
Washington, February 9, 1990

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, the Consular Convention between the United States of America and the Republic of Tunisia signed at Tunis on May 12, 1988.

The Convention supplements the provisions of the 1963 Vienna Convention on Consular Relations. The Convention will facilitate the ability of American and Tunisian consuls to assist their fellow nationals in many ways and should contribute to the growth of travel and commercial contacts between the two countries.

The specific consular functions and services which will be permitted on a reciprocal basis include the issuance of passports and visas, performance of notarial services and the representation of the interests of nationals in estate matters. More significantly, the Convention states that consuls of the country whose nationals are arrested, detained or whose personal freedom is limited in any way will be notified without delay. Such notification ordinarily shall occur within three days. Moreover, consuls shall be permitted to visit such nationals within twenty-four hours of a request to do so. Finally, consuls have the right to be informed of the charges against the national and the right to be present at the judgment and during all subsequent appeals.

The Convention's provisions follow the pattern of bilateral consular conventions in force with a number of countries. Articles 2–8 provide for the establishment of consular posts, appointment of officers and employees for such posts, termination of their assignments, and other conditions relating to the operation of a consular post.

Articles 9–31 provide various privileges and immunities for consular officers and consular employees including, in Articles 13 and 15, inviolability of consular premises and archives, respectively. Article 9 states that consular officers shall not be liable to arrest or detention pending trial except in the case of a grave crime. Under Article 20, consular officers and consular employees are entitled to immunity, with certain specified exceptions, from the judicial and administrative jurisdiction of the receiving state with respect to actions taken in the performance of consular functions. These articles reflect prevailing international practices.

Articles 32–44 relate to the performance of consular functions which include, in addition to the functions discussed above, representing the interests of nationals with respect to vessels and aircraft.

The Consular Convention will enhance our bilateral relations with the Republic of Tunisia and advance the interests of nationals of both countries. I recommend that the Convention be transmitted to the Senate for its advice and consent to ratification.

Respectfully submitted,

LAWRENCE EAGLEBURGER,
Acting Secretary.

CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF TUNISIA

The United States of America and the Republic of Tunisia,

Desiring to regulate and strengthen their consular relations, in order to promote the development of friendly and cooperative relations between the two countries, and thus to facilitate the protection of their national interests and the protection of the rights and interests of their nationals,

Affirming that the Vienna Convention on Consular Relations of April 24, 1963 shall continue to govern matters that have not been expressly settled by the provisions of this Convention,

Have decided to conclude this Convention and have appointed as their plenipotentiaries the following:

For the United States of America: John C. Whitehead, Deputy Secretary of State.

For the Republic of Tunisia: Taieb Sahbani, Secretary of State for Foreign Affairs.

Who, having communicated to each other their respective full powers, which were found in good and due form, have agreed as follows:

PART I—DEFINITIONS

ARTICLE 1—DEFINITIONS

For purposes of this Convention, the terms listed below shall have the following meanings:

(1) "consular post" is any consulate general, consulate, vice-consulate or consular agency;

(2) "consular district" is the area assigned to a consular post for the exercise of consular functions;

(3) "head of consular post" is the person charged by the sending State to act in that capacity;

(4) "consular officer" is any person, including the head of a consular post, entrusted with the exercise of consular functions. A consular officer may be either a career consular officer, who is not permitted to engage in gainful employment in the receiving State, or an honorary consular officer, who may engage in gainful employment in the receiving State in addition to his consular functions;

(5) "consular employee" is any person employed in the administrative or technical service of a consular post;

(6) "member of the service staff" is any person employed in the domestic service of a consular post;

(7) "members of a consular post" are consular officers, consular employees and members of the service staff;

(8) "member of the private staff" is any person employed exclusively in the private service of a member of the consular post;

(9) "members of the family" are the spouse and minor children of a member of a consular post who are part of his household and who are dependent upon him. Upon the request of the sending State, and with the consent of the receiving State, the parents and other persons who are related to a member of a consular post and who are a part of his household and who are dependent upon him may also be regarded as family members;

(10) "consular premises" are the building or parts of buildings and land connected thereto, irrespective of ownership, used exclusively for the purpose of the consular post;

(11) "consular archives" are all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and the equipment intended for their protection or safekeeping;

(12) "vessel of the sending State" is any vessel registered in accordance with the law of that State, excluding military vessels;

(13) "aircraft of the sending State" is any aircraft registered in accordance with the law of that State, excluding military aircraft;

(14) "law" designates, for the United States, all national, state and local laws, ordinances, regulations, resolutions and other provisions having the force and effect of law, including determinations of courts and other judicial agencies, and, for Tunisia, the entire body of legislation and regulations.

PART II—ESTABLISHMENT OF CONSULAR POST AND APPOINTMENT OF THE MEMBERS OF A CONSULAR POST

ARTICLE 2—ESTABLISHMENT OF A CONSULAR POST

1. A consular post may be established in the territory of the receiving State only with the consent of that State.

2. The seat of the consular post, its classification and its consular district shall be established by the sending State and shall be subject to the approval of the receiving State.

3. Subsequent changes in the seat of the consular post may be made by the sending State only with the consent of the receiving State.

4. The prior express consent of the receiving State shall also be required for the opening of an office forming part of an existing consular post elsewhere than at the seat thereof.

ARTICLE 3—ADMISSION OF HEAD OF CONSULAR POST AND APPOINTMENT OF THE OTHER MEMBERS OF A CONSULAR POST

1. The heads of consular posts other than consular agents shall be admitted and recognized by the government of the receiving State, in accordance with the regulations and formalities in force in that State, upon presentation of their consular commission or other similar document.

2. (a) The exequatur or other authorization specifying their district shall be granted without delay and free of charge.

b. If the receiving State refuses to grant an exequatur or other authorization to exercise consular functions, it is not obliged to give the sending State reasons for such refusal.

3. Pending delivery of the exequatur or other authorization, the head of a consular post may be admitted on a provisional basis to the exercise of his functions.

4. As soon as the head of a consular post is admitted, even provisionally, to the exercise of his functions, the receiving State shall ensure that the necessary measures are taken to enable the head of a consular post to carry out the duties of his office and to accord him the facilities, privileges and immunities to which he is entitled under this Convention and the law of the receiving State.

5. Members of a consular post other than the head of the consular post are admitted by the receiving State to the exercise of their functions according to the rules and formalities established in that State, as soon as the sending State has notified the receiving State of their appointment.

At the request of the sending State, the receiving State shall issue to the consular officers referred to in the preceding paragraph a document recognizing their right to perform consular functions.

Article 4—Declaring Consular Officers Persona Non Grata and Consular Employees Unacceptable

1. The receiving State may, at any time and without having to explain the reason for its decision, notify the sending State through diplomatic channels that a consular officer is persona non grata or that a consular employee is unacceptable. In that event, the sending State shall, as the case may be, either recall the person concerned or terminate his functions with the consular post.

2. If the sending State fails to carry out its obligations under paragraph 1 of this Article within a reasonable period of time, the receiving State may decline to continue to recognize the person concerned as a member of the consulate.

Article 5—Notification of Appointment of Members of a Consular Post

1. The sending State shall notify promptly in writing the Ministry of Foreign Affairs in Tunisia or the Department of State in the United States, as appropriate, of the receiving State or other authority designated by that Ministry or Department of:

(a) the full name, nationality, rank and class of each consular officer appointed to a consular post;

(b) the appointment of other members of a consular post, their arrival after appointment to the consular post, their final departure or the termination of their functions and any other changes affecting their status that may occur in the course of their service with the consular post;

(c) the arrival and final departure of a person belonging to the family of a member of a consular post and the fact that a person becomes or ceases to be such a member of the family;

(d) the arrival and final departure of members of the private staff and, where appropriate, the termination of their service as such;

(e) the engagement and discharge of persons resident in the receiving State as members of a consular post or as members of the private staff entitled to privileges and immunities.

2. When possible, prior notification of arrival and final departures shall be given.

Article 6—Nationality of Consular Officers

1. A consular officer shall be a national of the sending State and shall not be a national or a permanent resident of the receiving State.

2. An honorary consular officer, with the consent of the receiving State, may be a national or permanent resident of the receiving State or a national of a third State not a permanent resident of the receiving State.

Article 7—Temporary Exercise of the Functions of Head of a Consular Post

1. If the head of a consular post is unable for any reason to carry out his functions or if the position of the head of a consular post is temporarily vacant, the sending State may appoint a consular officer belonging to the same consular post or to another consular post of the sending State in the receiving State or a member of the diplomatic staff of its diplomatic mission in that State to act as temporary head of the consular post. The full name of the person concerned shall be notified in advance and in writing to the Department of State in the United States or, the Ministry of Foreign Affairs in Tunisia, as appropriate, of the receiving State.

2. A person acting temporarily as head of a consular post shall be entitled to perform all functions of a head of a consular post and to enjoy all facilities, privileges and immunities of a head of a consular post appointed under Article 3 of this Convention.

3. A member of the diplomatic staff of the diplomatic mission, temporarily acting as head of a consular post, shall continue to enjoy the privileges and immunities accorded to him by virtue of his diplomatic status, except as provided under Article 40, paragraph 5, of this Convention.

Article 8—Performance of Consular Functions by the Diplomatic Mission

1. A consular department, charged with the performance of consular functions, may be established by the sending State at its diplomatic mission.

2. The sending State may charge one or more members of its diplomatic mission in the receiving State with the performance of consular functions. A member of the diplomatic mission charged with the performance of consular functions shall continue to enjoy the privileges and immunities to which he is entitled as a member of the diplomatic mission, except as provided in Article 40, paragraph 5, of this Convention.

PART III—FACILITIES, PRIVILEGES AND IMMUNITIES

ARTICLE 9—ACQUISITION OF CONSULAR PREMISES

1. The sending State may, to the extent it is permitted under the law of the receiving State and on the basis of reciprocity, acquire by ownership, lease or any other form of tenure which may exist under the law of the receiving State, land, buildings, or parts of buildings for the purpose of a consular post.

2. The sending State shall have the right to construct, reconstruct, restore, or alter buildings and other appurtenances on land held in accordance with the provisions of paragraph 1 of this Article.

3. Nothing in paragraphs 1 or 2 this Article shall be construed to exempt the sending State from compliance with applicable building, planning, zoning and other similar regulations or restrictions of the receiving State.

ARTICLE 10—EXEMPTION FROM REAL PROPERTY TAXATION

1. The sending State shall be exempt in the receiving State from all taxes, charges and fees with respect to:

(a) the acquisition, occupation, maintenance and use of land, buildings and parts of buildings acquired in accordance with Article 9 of this Convention and used exclusively for purposes of the consular post including residences of career consular officers;

(b) transactions and instruments relating to the acquisition or use of the immovable property referred to in paragraph 1(a) of this Article.

2. The sending State shall also be exempt in the receiving State from all taxes, charges and fees with respect to movable property owned, possessed or used by the sending State exclusively for consular purposes.

3. The exemption provided for in this Article shall not apply to charges and fees for specific services rendered.

4. The exemption accorded by this Article shall not apply to such fees and taxes if under the law of the receiving State they are payable by a person contracting with the sending State or with a person acting on behalf of the sending State.

ARTICLE 11—ASSISTANCE IN ACQUIRING PREMISES

1. The receiving State shall either facilitate, in accordance with its law, the acquisition in its territory by the sending State of premises necessary for its consular post or assist the latter in obtaining accommodations in some other way.

2. It shall also, where necessary, assist the consular post in obtaining suitable accommodations for its members.

ARTICLE 12—IMMUNITY FROM REQUISITION

The consular premises, including the furnishings and property thereon, owned or occupied by consular purposes by the sending State, and its means of transport, shall be immune from any form of requisition. Said premises shall not be exempt from expropria-

tion for purposes of national defense or public utility in accordance with the law of the receiving State. If expropriation is necessary for such purpose, all appropriate steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate, and effective compensation shall be paid to the sending State.

ARTICLE 13—INVIOLABILITY OF CONSULAR PREMISES

1. The consular premises and the residence of the career head of the consular post shall be inviolable. The authorities of the receiving State shall not enter the premises except with the consent of the head of the consular post, his designee, or the head of the diplomatic mission of the sending State.

2. The consent may, however, be assumed in case of fire or other disaster requiring prompt protective action.

ARTICLE 14—USE OF COAT OF ARMS AND NATIONAL FLAG

1. The coat of arms of the sending State together with an inscription designating the consular post in the language of the sending State and of the receiving State may be affixed to the consular premises as well as to the building which is the residence of the head of a consular post.

2. The flag of the sending State may be flown on the consular premises and also at the residence of the head of a consular post and on the means of transport used exclusively by him for official duties.

ARTICLE 15—INVIOLABILITY OF CONSULAR ARCHIVES

1. The consular archives shall be inviolable at all times and wherever they may be.

2. Consular agents and honorary consular officers shall keep consular archives separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the material goods, books, or documents relating to their profession or trade.

ARTICLE 16—FREEDOM OF COMMUNICATION

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other posts wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags, and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. "Official correspondence" means all correspondence relating to the consular post and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reasons to believe that the bag contains something other than

the correspondence, documents, or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the numbers of packages constituting the consular bag. Except with the consent of the receiving State, he shall be neither a national of the receiving State, nor, unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic missions, and its consular posts may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

Article 17—Consular Fees

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the law of the sending State for consular acts.

2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges shall be exempt from all fees and taxes in the receiving State.

Article 18—Protection of Consular Officers

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.

Article 19—Personal Inviolability of Consular Officers

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this Article, consular officer shall not be committed to prison or liable to any other

form of restriction on their personal freedom save in execution of a judicial decision of final effect.

3. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conductd with the respect due to him by reason of his official position and, except in the case specified in paragraph 1 of this Article, in a manner which will hamper the exercise of consular functions as little as possible. When, in the circumstances mentioned in paragraph 1 of this Article, it has become necessary to detain a consular officer, the proceedings against him shall be instituted with the minimum of delay.

4. In the event of the arrest or detention of a consular officer or a member of his family or of criminal proceedings being instituted against such person, the receiving State shall immediately notify his diplomatic mission or consular post.

Article 20—Immunity From Jurisdiction

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either:

(a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or implicitly as an agent of the sending State; or

(b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

Article 21—Immunity From Giving Testimony

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.

2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible and when permissible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their function or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

Article 22—Waiver of Privileges and Immunities

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in this Convention.

2. The waiver shall in all cases be express and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 20 of this Convention shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from a judicial decision; in respect of such measures, a separate waiver shall be necessary.

Article 23—Immunity From Registration and Residence Permits

1. Consular officers and consular employees and members of their families shall be exempt from all obligations under the law of the receiving State in regard to the registration of aliens and residence permits.

2. The provisions of paragraph 1 of this Article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who carries on any private gainful occupation in the receiving State or to any member of the family of such employee.

Article 24—Exemption From Social Security Provisions

1. Subject to the provision of paragraph 3 of this Article, members of the consular post, with respect to services rendered by them for the sending State, and members of their families shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligation which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Article 25—Exemption of Members of a Consular Post From Taxation

1. Consular officers and consular employees and members of their families shall be exempt from all fees and taxes, personal or real, national, regional, or municipal, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) fees or taxes on private immovable property situated in the territory of the receiving State;

(c) estate, succession, or inheritance duties and duties on transfers levied by the receiving State, subject to the provisions of paragraph b of Article 27 of this Convention;

(d) fees and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;

(e) fees and taxes levied for specific services rendered;

(f) registration, court or record fees, mortgage fees and stamp duties.

2. Members of the service staff shall be exempt from fees and taxes on the wages which they receive from the sending State for their services.

3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the law of that State impose upon employers concerning the levying of income tax.

ARTICLE 26—EXEMPTION FROM CUSTOMS DUTIES AND INSPECTION

1. The receiving State shall, in accordance with its law, permit entry of and grant exemption from all customs duties, taxes and related charges other than charges for storage, transport, and similar services, on:

(a) articles for the official use of the consular post, including motor vehicles;

(b) articles, including motor vehicles for the personal use of a consular officer or members of his family, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in sub-paragraph (b) of paragraph 1 of this Article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families shall be exempt from inspection. It may be inspected only if there are serious reasons to believe that it contains articles other than those referred to in sub-paragraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by law of the receiving State or which are subject to its quarantine law. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

ARTICLE 27—EXEMPTION OF MOVABLE PROPERTY FROM TAXATION IN CASE OF DEATH

In the event of the death of a member of the consular post or of a member of his family, the receiving State:

(a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the

receiving State the export of which was prohibited at the time of his death;

(b) shall not levy national, regional, or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

ARTICLE 28—RESPECT FOR THE LAW OF THE RECEIVING STATE

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the law of the receiving State, including traffic regulations.

2. They also have a duty not to interfere in the internal affairs of that State.

ARTICLE 29—COMPLIANCE WITH INSURANCE PROVISIONS

All vehicles, vessels and aircraft owned by the sending State and used for the purpose of a consular post and all vehicles, vessels and aircraft belonging to members of a consular post or members of their families must be adequately insured against third-party risks. In the case of nationals or permanent residents of the receiving State, such insurance shall be obtained as required by the law of the receiving State.

ARTICLE 30—FREEDOM OF MOVEMENT

Subject to the law concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to all members of the consular post.

ARTICLE 31—EXCLUSION FROM ENJOYMENT OF FACILITIES, PRIVILEGES AND IMMUNITIES

1. Members of a consular post and members of the families of members of a consular post who are either nationals or permanent residents of the receiving State or who are carrying on a private gainful occupation shall not enjoy the facilities, privileges and immunities provided by the Convention except the immunities provided in the second paragraph of this Article and under Article 21, paragraph 3, of this Convention.

2. Honorary consular officers and consular agents shall enjoy only immunity from jurisdiction in respect of official privileges provided in paragraph 3 of Article 21 of this Convention. So far as these honorary consular officers and consular agents are concerned, the receiving State shall likewise be bound by the obligation laid down in paragraph 2 of Article 21 of this Convention. If criminal proceedings are instituted against such a consular officer or agent the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.

3. Those members of the family of a member of the consular post who are themselves nationals of the receiving State or of a third

State, or permanently resident in the receiving State, shall not enjoy the facilities, privileges and immunities provided for in this part. The receiving State shall, however, exercise its jurisdiction over those persons in such a way as to hinder as little as possible the performance of the functions of the consular post.

PART IV—CONSULAR FUNCTIONS

ARTICLE 32—GENERAL CONSULAR FUNCTIONS

Consular officers shall be entitled to:

1. Protect in the receiving State the rights and interests of the sending State and of its nationals, including individuals and bodies corporate to the extent permitted by international law, and further the development of commercial, economic, tourist, social, scientific, cultural, and technical relations between the sending and receiving States.

2. Assist nationals of the sending State, including individuals and bodies corporate to the extent permitted by international law, in their dealings with the authorities of the receiving State.

3. Arrange, subject to the practices and procedures obtaining in the receiving State, appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State and obtain provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defense of their rights and interests.

4. Ascertain by all lawful means conditions and developments in the political, commercial, economic, tourist, social, scientific, cultural, and technical life of the receiving State, report thereon to the Government of the sending State and give information to persons interested.

5. Promote in other ways the development of friendly relations between the sending and receiving States.

ARTICLE 33—EXECUTION OF CONSULAR FUNCTIONS

1. A consular officer shall be entitled to perform within his consular district the functions specified in this Part, in keeping with the law of the receiving State. He may perform other consular functions which are not contrary to the law of the receiving State or to which the receiving State does not object.

2. In the exercise of his functions, a consular officer may address directly, in writing as well as orally, and receive direct replies from:

(a) the competent local authorities of his consular district;

(b) the competent central authorities of the receiving State, to the extent permissible under the law and practice of the receiving State.

3. A consular officer shall be entitled, subject to the advance consent of the receiving State, to perform consular functions also outside his consular district.

Article 34—Functions Relating to Nationality Documents, Civil Status and Travel Documents

1. A consular officer shall be entitled:

(a) to register nationals of the sending State;

(b) to transmit notices from the sending State to nationals of the sending State regarding national services;

(c) to receive applications and declarations relative to nationality of citizens of the sending State and to issue respective documents;

(d) to issue, renew, extend, amend and revoke

(i) passports or other travel documents of nationals of the sending State;

(ii) visas or other appropriate documents for persons wishing to travel to or through the sending State.

2. A consular officer shall also be entitled to register births and deaths of nationals of the sending State and to record marriages of nationals of the sending State, concluded in accordance with the law of the receiving State, and to accept communications and documents of the same.

3. It is understood that the registration or the receipt of notification by a consular officer of a birth or death, the recording by a consular officer of a marriage celebrated under the law of the receiving State or the receipt by a consular officer of declaration pertaining to the family relationship in no way exempts a person from any obligation imposed under the law of the receiving State with regard to the notification to or registration with the appropriate authorities of the receiving State of births, deaths, marriages or other matters pertaining to family relationships of a person.

Article 35—Transmittal and Service of Judicial and Other Documents

Consular officers shall be entitled within the limits of their consular district to transmit judicial and extrajudicial documents or execute letters rogatory in accordance with international agreements in force or, in the absence of such agreements, in any other manner compatible with the law of the receiving State.

Article 36—Notarial Functions

1. Consular officers shall be entitled within the limits of their consular district:

(a) to draw, attest, certify, authenticate, legalize or otherwise validate legal acts and documents required by a national of the sending State for use outside the territory of the receiving State or required by any person for use in the sending State, provided that such acts of consular officers are not contrary to the law of the receiving State;

(b) to certify the accuracy of the translation, as well as to issue certified copies, of translated legal instruments and documents;

(c) to take the deposition of any person whose testimony is requested in connection with a judicial or administrative proceeding pending before the courts of the sending State;

(d) to perform all other notarial functions provided for by the law of the sending State and which are not contrary to the law of the receiving State.

2. Legal acts and documents, issued or certified by a consular officer in accordance with paragraph 1 of this Article, shall have equal legal effect and evidentiary value in the receiving State as documents issued or certified by the competent authorities of the receiving State, provided such acts and documents have been drawn and executed in a manner not contrary to the law of the receiving State.

Article 37—Functions Relating to Guardianships and Trusteeships

1. The competent authorities of the receiving State shall notify the consulate in writing of instances in which it is necessary to establish a guardianship or trusteeship over a national of the sending State who is not of age or is incapable of performing legal acts, or other property of a national of the sending State located in the receiving State when for whatever reason such property cannot be administered by the national of the sending State.

2. A consular officer may, in accordance with the law of the receiving State, recommend to the courts or other competent authorities of the receiving State appropriate persons to act in the capacity of guardians or trustees for nationals of the sending State or for the property of such nationals when this property is left without supervision.

Article 38—Communication With Nationals

Consular officers shall be entitled within the limits of their consular district to establish and maintain contact with any national of the sending State, to provide him with counsel and all necessary assistance and, if necessary, to take steps to secure legal assistance needed by him. The receiving State shall in no way infringe upon the right of a national of the sending State to communicate with his consular post or visit his consular post.

Article 39—Communication With Detained Sending State Nationals

1. The competent authorities of the receiving State shall, without delay, inform the appropriate consular post whenever a national of the sending state is the subject of an arrest or of any form of restriction on his personal freedom. For the purpose of this ariticle, the term "without delay" contemplates that this notification will be made within three days following restriction on the freedom of nationals of the sending State, or in cases where the notification cannot be made within three days because of communications or other difficulties, as soon as possible thereafter.

2. The receiving State shall allow consular officials of the sending State to visit their arrested or detained nationals within twenty-four hours of a request for such visit.

3. The competent authorities of the receiving State shall inform the national without delay of his right to notify the consular post of the restriction on his freedom.

4. Any communication addressed to the consular post by the person arrested, incarcerated, or placed under any other form of restriction on his freedom, shall be transmitted without delay by the authorities of the receiving State.

5. In the event charges are brought against a national of the sending State in the receiving State, the competent authority shall inform the consular official, upon his request, of the charges against the national and shall allow the consular official to be present at the time of the judgment of said national and during all subsequent appeals, unless the national expressly opposes such action.

6. A national to whom the provisions of this article apply may receive, from a consular official, packages containing food, clothing, medication, books, and writing supplies, insofar as they are authorized by the regulations in force of the institution in which he is detained.

7. The rights contained in this article shall be exercised in accordance with the laws of the receiving State.

ARTICLE 40—FUNCTIONS RELATING TO ESTATES

1. Whenver the competent authorities of the receiving State learn that a national of the sending State has died in the receiving State, they shall immediately notify the appropriate consular officer of the sending State and, upon his request, send him a copy of the death certificate or other documentation confirming the death.

2. A consular officer shall be entitled:

(a) to take appropriate measures with respect to the protection and conservation of the estate of a deceased national of the sending State who has left property in the jurisdiction of the receiving State. In this connection he may approach the competent authorities of the receiving State with a view towards protecting the interest of a sending State national, not a permanent resident of the receiving State, unless or until such national is otherwise represented. He may also request the competent authorities of the receiving State to permit him to be present at the inventory and sealing and, in general, to take an interest in the proceedings;

(b) to safeguard the interest of a national of the sending State who has or claims to have a right to the property left behind by the deceased within the jurisdiction of the receiving State, regardless of the nationality of the deceased, and if such concerned national is not in the receiving State or does not have a representative in the receiving State, to the extent permitted by the law of the receiving State.

3. A consular officer of the sending State shall be entitled to receive for transmission to a national of the sending State who is not a permanent resident of the receiving State any money or other property to which such national may be entitled as a consequence of the death of another person, including shares in an estate, payments made pursuant to employee's compensation law, pension and

social benefits systems in general, and proceeds of insurance policies, unless the court, agency, or person making distribution directs that transmission be affected in a different manner. The court, agency, or person making distribution may require that a consular officer comply with conditions laid down with regard to:

(a) presenting a power of attorney or other authorization from such national residing outside the receiving State;

(b) furnishing reasonable evidence of the receipt of such money or other property by such national; and

(c) returning the money or other property in the event he is unable to furnish such evidence.

4. If a national of the sending State, not a permanent resident of the receiving State, dies during a temporary stay in or transit through the receiving State, the consular officer shall be entitled without delay to take provisional custody of the money, documents and personal effects that were in such national's possession for transfer to an heir or testamentary executor, provided that the deceased person shall not have left an accompanying next-of-kin or legal representative in the jurisdiction of the receiving State, and provided that such provisional custody will be relinquished to a duly appointed administrator or other authorized person.

5. In exercising the rights provided by paragraphs 1 through 4 of this Article, a consular officer must comply with the law of the receiving State in the same manner and to the same extent as a national of the receiving State and, irrespective of the provisions of Article 20 of this Convention, shall be subject in this respect to the civil jurisdiction of the receiving State. In the application of the provisions of this paragraph, a consular officer shall observe the law of the receiving State with respect to the transport of property and the transfer of sums of money. Further, nothing in these Articles shall authorize a consular officer to act as an attorney-at-law.

ARTICLE 41—GENERAL FUNCTIONS RELATING TO VESSELS

1. A consular officer shall be entitled, within the consular district, to render every assistance and aid to a vessel of the sending State which has come to port or the territorial or internal waters of the receiving State, as well as to its crew and passengers, as soon as pratique has been granted.

2. Consular officers may invoke the aid of the competent authorities of the receiving State in any matter relating to the performance of their functions with respect to a vessel of the sending State, members of the crew or the passengers of such a vessel.

3. Consular officers may proceed on board the vessel of the sending State as soon as it has been granted pratique. Members of the crew may then immediately establish contact with the consular officer.

4. Consular officers shall be entitled within the consular district:

(a) to investigate, without prejudice to the rights of the authorities of the receiving State, any incident occurring on board a vessel, question any member of the crew, examine the vessel's papers, take statements with regard to its voyage and destination and generally facilitate the vessel's entry into, stay in and departure from a port;

(b) without prejudice to the rights of the authorities of the receiving State, to settle disputes between the master and any member of the crew, including disputes as to wages and contracts of service, to the extent permitted under the law of the sending State;

(c) to make arrangements for medical treatment for or the repatriation of any member of the crew or any passenger of the vessel, in accordance with the law of the receiving State;

(d) to receive, draw up or certify declarations or other documents prescribed by the law of the sending State in connection with vessels.

ARTICLE 42—FUNCTIONS RELATING TO INVESTIGATIONS OF VESSELS AND CREW

1. If the competent authorities of the receiving State intend to take any coercive action or to institute any formal inquiry on board a vessel of the sending State, they shall so inform the appropriate consular officer. Except in cases when such notification is impossible because of the need to take immediate action on the matter, it shall be made in time to enable the consular officer to be present. If the consular officer has not been present, the competent authorities of the receiving State shall provide the consular officer with full information with regard to what has taken place.

2. The provisions of paragraph 1 of the Article shall also apply in any case in which the competent authorities of the port area intend to question members of the crew ashore. The provisions of this Article shall not, however, apply to any routine examination by the competent authorities with regard to customs, immigration or public health, nor to any action taken at the request or with the consent of the master of the vessel.

ARTICLE 43—FUNCTIONS RELATING TO DAMAGED VESSELS

1. If a vessel of the sending State is wrecked, runs aground, is swept ashore or otherwise sustains damage in the receiving State or if any article forming part of the cargo of a wrecked vessel of the sending, receiving or a third State, being the property of a national of the sending State, is found on the coast or in the internal or territorial waters of the receiving State as an article swept ashore or is brought into a port of that State, the competent authorities of the receiving State shall as soon as possible notify a consular officer of the sending State accordingly. They shall also inform him of measures already taken for the preservation of the lives of persons on board the vessel, the vessel, the cargo and other property on board as well as of articles belonging to the vessel or forming part of her cargo which have become separated from the vessel.

2. The consular officer may render every assistance to such vessel, her passengers and members of her crew. For this purpose he may invoke the assistance of the competent authorities of the receiving State. The consular officer may take the measures described in paragraph 1 of this Article as well as measures for the repair of the vessel or request the competent authorities of the receiving State to take, or continue to take, such measures.

3. If the master or the owner or the underwriter of the vessel or other person who represents the interests of a vessel described in paragraph 1 of this Article is unable to make necessary arrangements in connection with the vessel or its cargo, a consular officer may make such arrangements on his behalf. A consular officer may, in accordance with the law of the receiving State, under similar circumstances take appropriate steps with regard to cargo and other property owned by the sending State or the nationals thereof which belongs to a wrecked or damaged vessel which is registered in a state other than the sending State, except when a vessel is under the flag of the receiving State.

4. No customs duties shall be levied against a damaged vessel of the sending State or its cargo or stores unless they are delivered for use in the receiving State.

Article 44—Functions Relating to Aircraft

The provisions of Articles 41, 42 and 43 of this Convention shall, to the extent feasible, apply also in relation to aircraft, provided that the application of these Articles is not contrary to the provisions of any bilateral or multilateral agreement in force between the sending State and the receiving State.

PART V—FINAL PROVISIONS

Article 45—Settlement of Disputes

Any disputes between the two States regarding the application or the interpretation of this Convention shall be resolved in the first instance through diplomatic channels.

Article 46—Ratification, Entry Into Force and Termination

1. This Convention will be subject to ratification. It shall enter into force on the thirtieth day following the date of the exchange of instruments of ratification which shall take place as soon as possible.

2. This Convention shall remain in force until the expiry of six months from the date on which one Contracting State shall have given the other State a written notice of its intention to terminate the Convention.

In witness whereof, the respective plenipotentiaries of the two contracting States have signed this Convention.

Done at Tunis this twelfth day of May, 1988 in duplicate, in the English, Arabic, and French languages, all three texts being equally authentic.

For the United States of America:
John C. Whitehead.

For the Republic of Tunisia:
Taieb Sahbani.

○